

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

IN RE:

RUSSELL ERVIN BURDEN, JR. : Case No. 04-14393
dba REAL ESTATE SOLUTIONS OF : Chapter 7
AMERICA : Judge Mayer

Debtor

**RUSSEL ERVING BURDEN, JR
dba REAL ESTATE SOLUTIONS OF
AMERICA dba RESA**

Petitioner

**TERRY C. LEGUM, JOEL B.
HAMAKER AND JANICE R.
COLEMAN**

Respondents.

**RESPONDENTS TERRY C. LEGUM, JOEL B. HAMAKER
AND JANICE R. COLEMAN'S
OPPOSITIONS TO DEBTOR'S MOTIONS FOR ORDERS TO SHOW CAUSE
AND THEIR MOTION FOR SANCTIONS**

Terry C. Legum, Esquire, Joel B. Hamaker and Janice R. Coleman as and for their
Opposition to the Motions for Orders to Show Cause and their Motion for Sanctions, state as
follows:

1. This case was instituted by Debtor in his individual capacity and doing business as RESA and Real Estate Solutions of America on October 22, 2004.
2. On that same date, Debtor filed a Suggestion of Bankruptcy in the case of

Joel B. Hamaker v. Real Estate Solutions of America, LLC and Russell E. Burden, Circuit Court of Fairfax County, Virginia, At Law No. 218072 (“HAMAKER LITIGATION”). As a result of Debtor’s bankruptcy filing, the HAMAKER LITIGATION against Mr. Burden was stayed.

3. On that same date, Debtor filed a Suggestion of Bankruptcy in the case of *Janice R. Coleman, owner of the Janice R. Coleman IRA, v. Real Estate Solutions of America, LLC and Russell E. Burden, Circuit Court of Fairfax County, Virginia, At Law No. 218087 (“COLEMAN LITIGATION”)). As a result of Debtor’s bankruptcy filing, the COLEMAN LITIGATION was stayed.*

4. In his Motions, Debtor alleges that Respondents by continuing with the HAMAKER and COLEMAN LITIGATION against Real Estate Solutions of America, LLC somehow violated the terms of the automatic stay under 11 U.S.C. §362.

5. Real Estate Solutions of America, LLC is a limited liability company duly organized and existing pursuant to the laws of the Commonwealth of Virginia. It is, therefore, a separate and distinct entity from Debtor, with its own legal existence. To date, Real Estate Solutions of America, LLC has not filed a bankruptcy petition and, therefore, is not entitled to the benefit of the automatic stay. As such, there is nothing to prevent the further prosecution of Mr. Hamaker and Ms. Coleman’s claims against Real Estate Solutions of America, LLC in either the HAMAKER LITIGATION or the COLEMAN LITIGATION, respectively.

6. Debtor’s filing of his instant motions violates Bankruptcy Rule 9011 as

it is not warranted by existing law or the facts of this matter and has not been filed for a proper purpose. Rather, the motions have been filed for improper purposes and to harass Respondents.

7. When he filed his motions, Debtor failed to set a hearing date as required by the Rules of this Court. He also failed to indicate the date on which Respondents had to respond to the Motions in violation of the Rules of this Court. Moreover, as of the date of the filing of this Opposition, Ms. Coleman nor undersigned counsel had received a copy of the motion against Ms. Coleman. The Court on its own set these matters for a hearing on December 14, 2004 at 10:00 a.m.

WHEREFORE, the premises considered, Respondents respectfully request that Debtor's Motions be denied and that they be awarded their reasonable attorney's fees for having to respond to them pursuant to Bankruptcy Rule 9011.

Respectfully submitted,

LEGUM & WILK, P.L.C.

By: /s/ Adam R. Wilk
Adam R. Wilk, Esquire
VSB #28917
4004 Williamsburg Court
Fairfax, VA. 22032
(703) 385-6700

LAW OFFICES OF
RICHARD M. SISSMAN

By: /s/ Richard M. Sissman

Richard M. Sissman

VSB #35119

1485 Chain Bridge Rd.

Suite #105

McLean, VA. 22101

(703) 903-9646

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was mailed, this 24th day of November, 2004 to:

Russell Ervin Burden, Jr.
107 S. West Street
Alexandria, VA. 22314-2891

Robert Tyler, Esquire
Chapter 7 Trustee
TYLER, BARTL, GORMAN and RAMSDELL, P.L.C
206 N. Washington Street, #200
Alexandria, VA. 22314

Office of the US Trustee
115 South Union Street
Suite #210
Alexandria, VA. 22314

/s/ Adam R. Wilk
Adam R. Wilk

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

ORDER

UPON CONSIDERATION of the Motions to Show Cause filed by Debtor (“Debtor’s Motions”) and the Opposition of Respondents, Terry C. Legum, Joel B. Hamaker and Janice R. Coleman, thereto; and

IT APPEARING that no grounds exist to issue show cause orders against Respondents and that Debtor's Motions were filed in bad faith and in violation of Bankruptcy Rule 9011;

IT IS THEREFORE by the United States Bankruptcy Court for the Eastern District of Virginia

ORDERED that the Debtor's Motions be, and they hereby are, DENIED; and it is further

ORDERED that Respondents' Motion for Sanctions against Debtor be, and it hereby is, GRANTED; and it is further

ORDERED that Debtor be and he hereby is, SANCTIONED for the filing of his Motions pursuant to Bankruptcy Rule 9011; and it is further

ORDERED that Debtor pay to each Respondent the sum of \$500 for their having to respond to his Motions; and it is further

ORDERED that said sums be paid to Respondents within ten (10) days of this Order with said sums to be delivered to Mr. Legum's office at 4004 Williamsburg Court, Fairfax, VA. 22032; and it is further

ORDERED that if Debtor fails to pay said sums as timely and as required that he be held in contempt of this Court.

ENTERED THIS _____ DAY OF DECEMBER 2004.

Judge Robert G. Mayer
United States Bankruptcy Court
Eastern District of Virginia
Alexandria Division

c: Adam R. Wilk
LEGUM & WILK, P.L.C.
4004 Williamsburg Court
Fairfax, VA. 22032
(703) 385-6700

Russell Ervin Burden, Jr.
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